

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

JOHN F. SIMONTACCHI,)	
)	
Plaintiff,)	
)	
vs.)	3:05CV283
)	
IVENSYS, INC.,)	
)	
Defendant.)	
<hr style="border: 0.5px solid black;"/>		
JOHN F. SIMONTACCHI,)	
)	
Plaintiff,)	
)	
vs.)	3:06CV52
)	
IVENSYS, INC.,)	
)	
Defendant.)	
<hr style="border: 0.5px solid black;"/>		

This matter is before the court upon its own motion. At the pretrial conference held in this matter, the court directed the parties to brief the issue of what standard of review must be employed in the court’s review of the denial of Plaintiff’s claim for long-term disability benefits. The parties have filed their briefs, along with copies of the Plan at issue. The Summary Plan Description states that the “Company has discretionary authority to determine eligibility for and interpret the terms of the benefit plans.” The insurance policy itself states that the insurance company is the Plan fiduciary responsible for the determination of questions of eligibility for benefits. Upon review of the briefs and the Exhibits filed by the parties, it is unclear to the court what entity or entities actually made the decision to deny Plaintiff’s claim for benefits. Accordingly, the Defendant is hereby directed to inform the court, in writing, within ten days, as

to what entity actually made the decision that Plaintiff was not entitled to additional long term disability benefits. Defendant is also directed to provide the court with the evidentiary record presented to the decision maker. Defendant should not file such record, but rather should provide the record to chambers for the court's review.

IT IS SO ORDERED.

Signed: January 17, 2007

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

